Case 2:19-cv-02118-MCE-KJN Document 60 Filed 08/06/21 Page 1 of 2

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROGELIO MAY RUIZ,

Plaintiff,

v.

D. WOODFILL,

Defendant.

No. 2:19-cv-2118 MCE KJN P

<u>ORDER</u>

Plaintiff is a state prisoner, proceeding pro se, in an action brought under 42 U.S.C. § 1983. Plaintiff requests that the court appoint an attorney interpreter; the court construes the request as a request for counsel. District courts lack authority to require counsel to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether "exceptional circumstances" exist, the court must consider plaintiff's likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to most

prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that warrant a request for voluntary assistance of counsel. Having considered the factors under Palmer, the court finds that plaintiff failed to meet his burden of demonstrating exceptional circumstances warranting the appointment of counsel at this time. Indeed, plaintiff was previously denied the appointment of counsel, as well as an interpreter. (ECF No. 52.) Plaintiff also request an extension of time to file objections to the June 30, 2021, findings and recommendations. Good cause appearing, plaintiff's request will be granted. Accordingly, IT IS HEREBY ORDERED that: 1. Plaintiff's motion for the appointment of counsel (ECF No.59) is denied without prejudice; 2. Plaintiff's motion for an extension of time (ECF No. 59) is granted; and 3. Plaintiff is granted thirty days from the date of this order in which to file objections to the findings and recommendations. Dated: August 6, 2021 UNITED STATES MAGISTRATE JUDGE ruiz2118.31+36

Case 2:19-cv-02118-MCE-KJN Document 60 Filed 08/06/21 Page 2 of 2